IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.810 OF 1994.

The State of Maharashtra : Appellant.

versus

Nasci Mento Salvadore Coutto
(since deceased by his heirs
Mrs. Eno w/o Vincent Paul
Disilva & Anr. : Respondents.

Mr.S.N.Gawade, AGP, for the State.
Mr.A.A.Kumbhokoni with Mr.A.P.Kulkarni for the Respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 7th February 2005.

ORAL ORDER

1. Heard the learned AGP for the State and advocate for the respondents. The lands owned by the claimants admeasuring 12343 sq.mtrs.

situated at village Sawali were acquired by the Government under Notification dated 10th October 1968. The Special Land Acquisition Officer awarded compensation at the rate of Rs.3.60 ps. per sq.mtr. Against this Award the claimants had filed a Reference. In the Reference the trial Court enhanced the compensation to Rs.10/-. Therefore, this appeal filed by the State. This village Sawali, as is apparent from the record and judgment, is on the Thane Belapure-Road. It is 4 kms. from Thane creek bridge and 8 kms. from Thane City.

2. The advocate for the respondents drew my attention to the unreported judgment in a group of appeals vide **Appeal No.587 of 1989 & ors. [The State of Maharashtra v/s. Harischandra Pandurang Patil & ors.].** The judgment is dated 19/11/2003. Notification under Section 4 in that group of appeals was also of the date i.e. 10/10/1968. The lands were from other village, but acquired for the same project. In that case, the trial Court enhanced the compensation to Rs.15 to Rs.18 respectively per sq.mtr. depending on the facts of the particular case and those awards were upheld by this Court by the

aforesaid judgment in that group of appeals. The counsel for the respondents contended that village Sawali is also from the same area and in the same advantage, therefore, when the compensation is only granted at Rs.10/- per sq.mtr. then it is clear that the Court has exercised its discretion and granted lesser compensation to the claimant. He, therefore, contended that there is no merit in this appeal.

3. I find considerable force in this submission made by the counsel for the respondents. Though the Notification is of the same date and for other village, compensation of Rs.15 to Rs.18 per sq.mtr. is granted, as stated above, in the group of appeals and confirmed by this Court, the compensation at Rs.10/- per sq.mtr. in this matter appears to be proper. No interference is called for. Appeal is dismissed. No order as to costs.

[D.G.DESHPANDE]

07/02/2005 JUDGE.